

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 02-07-06
Department Name: First District Office
Department No.: 0210
Agenda Date: 02-14-06
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors
FROM: Supervisor Carbajal
STAFF Shane Stark
Eric Friedman x2155
CONTACT:
SUBJECT: Veterans' Tax Exemption

Recommendation(s):

That the Board of Supervisors: forward to the legislative committee Supervisor Carbajal's request to consider sending a letter to our local State Legislators and the State Board of Equalization, in the matter of William Connell and the Veterans' tax exemption, asking that action be taken to clarify language and/or legislative intent of California Public Code Section 16102 and return to the Board of Supervisors with a recommendation and draft letter.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 4. A Community that is Economically Vital and Sustainable.

Executive Summary and Discussion: Section 16102 of the Business and Profession Code states "Every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the Board of Supervisors shall issue to such soldier, sailor or marine, without cost, a license therefor".

For a number of years, Mr. William Connell, an honorably discharged veteran, has owned and operated the "Surf Dog" hot dog stand. Pursuant to section 16102 of the Business and Professions Code he has sought an exemption from paying business license taxes, as well as any sales taxes and property taxes associated with this business. At issue is whether section 16102 includes an exemption for sales tax and property tax or refers strictly to business license taxes.

The County Treasurer and Tax Collector has provided a tax exemption for Mr. Connell on taxes and fees associated with obtaining a business license but not for sales or property taxes (refer to attached memo). However, Mr. Connell argues that due to legislative intent and the insertion of a comma after the word “license” the Treasurer Tax Collector is incorrect in its interpretation and he also is entitled to an exemption from both sales and property tax.¹

To resolve the question on whether or not sales and property taxes are included as an exemption under section 16102 of the Business and Profession Code, clarification of the language, the legislative intent and disputed comma after the word “license” need to be addressed through appropriate action at the State level.

Mandates and Service Levels:

Fiscal and Facilities Impacts:

Special Instructions: Send a copy of the adopted letter asking for clarification of Business and Profession Code 16102 to Assembly member Pedro Nava, Senator Tom McClintock and the State Board of Equalization.

Concurrence:

¹ The Court of Appeal in *Brooks v. County of Santa Clara* (1987) 191 Cal. App. 3d 750 held that the legislative intent was that honorably discharged veterans be subject to regulation of the selling of goods but exempt from paying fees. The court examined the legislative history and language and concluded that the comma between “license” and “tax” was inadvertent – that is, that the statute should read “without payment of any license tax or fee.” The court held the exemption applied to various types of regulatory fees. The County contends that the exemption does not apply to other fees and taxes, such as sales and property taxes. Mr. Connell has a different view of history; he contends that the comma is not inadvertent (based on legislative history), and that as an honorably discharged veteran selling goods, he is exempt from all licenses, taxes, and fees.